

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA

v.

DONOVAN THOMAS,

DEFENDANT

)
)
)
)
)
)
)
)
)
)

CRIMINAL No. 03-29-P-H

ORDER ON DEFENDANT'S MOTION TO REDUCE SENTENCE

The defendant's motion to reduce his sentence under 18 U.S.C. § 3582(c)(2) on the basis of the retroactive guideline amendment governing the crack/powder cocaine ratio is **DENIED**. The defendant's original sentence was based on powder cocaine, not crack/cocaine base. The guideline amendment does not affect him. In an accompanying letter, he has also asked me to read Bell. v. Wiley, 481 F. Supp.2d 1168 (D. Colo. 2007). I have done so. I do not see how that decision (a *habeas corpus* proceeding invalidating, for a prisoner with about two years remaining on his sentence when he filed the petition, a Bureau of Prisons (BOP) regulation limiting placement in community confinement to the last ten percent of a prison sentence) can help this defendant on his motion to reduce sentence. (I sentenced this defendant to ten years on November 5, 2003. He has not yet served half that sentence.) I point out to the defendant that District Judge Young of Massachusetts has recently invalidated that BOP provision, Muniz v. Winn, 462 F. Supp.2d 175 (D. Mass. 2006), and his decision is under consideration by the

First Circuit. Once the First Circuit rules, its decision will be the binding authority in this Circuit.

SO ORDERED.

DATED THIS 18TH DAY OF JANUARY, 2008

/s/D. BROCK HORNBY
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE

**U.S. DISTRICT COURT
DISTRICT OF MAINE (PORTLAND)
CRIMINAL DOCKET FOR CASE #: 2:03CR29 (DBH)**

United States of America

represented by Helene Kazanjian
Office of the U.S. Attorney
District Of Maine
100 Middle Street Plaza
Portland, ME 04101
(207) 780-3257
email: helene.kazanjian@usdoj.gov

v.

Donovan Thomas,

Defendant

Represented By Donovan Thomas, *Pro Se*
Reg. No. 04326-036
Federal Prison Camp, Camp 2
P.O. Box 670
Minersville, PA 17954-0670